

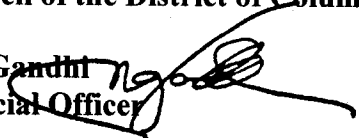
Government of the District of Columbia
Office of the Chief Financial Officer



Natwar M. Gandhi
Chief Financial Officer

MEMORANDUM

TO: The Honorable Vincent C. Gray
Chair, Council of the District of Columbia

FROM: Natwar M. Gandhi 
Chief Financial Officer

DATE: March 13, 2009

SUBJECT: Fiscal Impact Statement: "Adoption and Safe Families Amendment Act of 2009"

REFERENCE: Bill 18-12, as Introduced and draft Committee Print¹

Conclusion

Funds are sufficient in the FY 2009 through FY 2012 budget and financial plan to implement the provisions of the proposed legislation.

Background

The proposed legislation is intended to bring the District into compliance with the Adam Walsh Child Protection and Safety Act,² signed into law on July 27, 2006 by the President. Among other things, the federal law: 1) amends the Title IV-E³ background check requirements; 2) makes information in the National Crime Information Databases (NCID) available to

¹ The draft Committee Print sent to the Office of the Chief Financial Officer (OCFO) on March 5, 2009 contains two amendments to the introduced version of the bill that address the nature and scope of the exceptions to the Adam Walsh Act, in addition to an amendment noted in footnote #5 of this fiscal impact statement. The background section of this fiscal impact statement addresses pertinent facts that are contained in both bill versions. Both versions contain the same conclusion in this document with respect to their fiscal impact on the budget and financial plan, since providing the Child and Family Services Agency even broader discretion (as provided in the March 5, 2009 bill version) would not impact the budget and financial plan (see "Financial Plan Impact" section for more information). Therefore, this fiscal impact statement can be applied to either the introduced version of the bill or the version submitted to the OCFO on March 5, 2009.

² P.L. 109-248

³ Title IV-E of the Social Security Act pertains to federal funding for foster care and adoption assistance.

government agencies when investigating child abuse or neglect; 3) requires the Attorney General to conduct fingerprint-based checks of the NCID for child welfare agencies for certain purposes; and 4) requires the U.S. Department of Health and Human Services to establish a national registry of substantiated cases of child abuse and neglect.

The Council has passed several emergency and temporary measures in order to bring the District into compliance with the Adam Walsh Act, the most recent being Bill 17-967, the Adoption and Safe Families Continuing Compliance Temporary Amendment Act of 2008 (enacted December 8, 2008). The proposed permanent legislation would amend the Prevention of Child Abuse and Neglect Act of 1977⁴ to exclude certain criminal convictions from those that may disqualify an individual from receiving a license, approval, or permit to adopt or foster a child, and to allow such license, approval, or permission to be granted based on current circumstances *only where federal Title IV-E adoption assistance payments or foster care maintenance payments are not to be made on behalf of the child*. This is intended to give the Child and Family Services Agency (CFSA) the flexibility to make exceptions to adoption restrictions included in the Adam Walsh Act, so long as federal payments are not made on behalf children who are adopted by individuals with disqualifying convictions. A legal opinion from the Children's Law Center of Washington, D.C. states that federal law does *not* prohibit or make it illegal for states to place children in homes with individuals with certain types of criminal convictions. Rather, states (including the District) simply cannot use *federal funding* (Title IV-E payments) for adoption or foster care assistance in these instances. Under the proposed bill, CFSA would also be granted the flexibility to determine whether an individual seeking to adopt or foster a child should be allowed to do so if they live with another individual who has a felony conviction listed in § 4-1305.06(b) or (c).

The proposed legislation would also amend D.C. Official Code § 16-308 to permit the court to dispense with an investigation, report, and interlocutory decree, but not a criminal records check, under specified circumstances.⁵

Financial Plan Impact

Funds are sufficient in the FY 2009 through FY 2012 budget and financial plan to implement the provisions of the proposed legislation. Costs associated with implementing the proposed bill would be minor and could be absorbed with existing agency resources. CFSA anticipates that it would likely be "rare" for it to waive disqualifying criminal convictions for individuals attempting to adopt or foster a child. In cases where the CFSA does make this waiver and provides financial adoption or foster care assistance on behalf of children adopted by individuals with disqualifying convictions, CFSA must do so with local resources, and only to the extent that *sufficient* local resources are included in the CFSA budget. CFSA is already operating under

⁴ Effective September 23, 1977. D.C. Law 2-22; D.C. Official Code § 4-1305.06 *et seq.*

⁵ The draft Committee Print of the proposed bill, as submitted to the Office of the Chief Financial Officer on March 5, 2009, contains an amendment that would allow the court to waive the criminal background check requirement in the event that the prospective adoptee is an adult, or if the prospective parent is the spouse of the natural parent (*i.e.*, step-parent) and the natural parent consents to the adoption. Whether or not this amendment is adopted does not change the fiscal impact of the proposed bill.

The Honorable Vincent C. Gray

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these circumstances since the Adoption and Safe Families Continuing Compliance Temporary
Amendment Act of 2008 is currently in effect.